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**FISCAL IMPACT STATEMENT**

**LS 7343**

**BILL NUMBER:** HB 1296

**NOTE PREPARED:** Feb 5, 2004

**BILL AMENDED:** Feb 4, 2004

**SUBJECT:** Tax Levies for Community Mental Health Centers.

**FIRST AUTHOR:** Rep. Klinker

**FIRST SPONSOR:**

**BILL STATUS:** 2<sup>nd</sup> Reading - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

STATE IMPACT	FY 2004	FY 2005	FY 2006
State Revenues			
State Expenditures	65,000	198,000	204,000
Net Increase (Decrease)	(65,000)	(198,000)	(204,000)

LOCAL IMPACT	CY 2004	CY 2005	CY 2006
Local Revenues	952,000	983,000	1,016,000
Local Expenditures			
Net Increase (Decrease)	952,000	983,000	1,016,000

**Summary of Legislation:** (Amended) *Incompetence to Stand Trial*: This bill provides that a third party who contracts with the Division of Mental Health and Addiction may: (1) provide competency restoration services; and (2) initiate a regular commitment proceeding. It provides that a psychologist or psychiatrist appointed in a competency hearing may not be an employee or a contractor at a state institution. The bill allows the Division of Mental Health and Addiction to provide competency restoration services to an inmate at a Department of Correction facility.

*CMHC Appropriations*: This bill separates the laws governing the funding of community mental health

centers from the laws governing the funding of community mental retardation and other developmental disabilities centers. It changes the formula under which counties fund community mental health centers located outside Marion County. The bill also repeals a provision that duplicates other provisions added to the same chapter.

**Effective Date:** (Amended) December 12, 2003 (retroactive); January 1, 2004 (retroactive); Upon passage; July 1, 2004.

**Summary of Net State Impact:** (Revised) If Lake County increases its actual levy (as explained in *Explanation of Local Revenues*), the state would have additional expenditures for PTRC and Homestead Credit estimated at \$65,000 in FY 2004 (partial year), \$198,000 in FY 2005, and \$204,000 in FY 2006.

The bill would also affect the expenditures of the Department of Correction (DOC) and the Department of Mental Health and Addictions (DMHA). Total state expenditures would not likely be significantly if the number of defendants found incompetent to stand trial remained relatively low. The expenditures that would be affected would likely fall within existing department appropriations and/or be shifted between the two departments. The DMHA, however, reports that additional funding will be necessary if the number of defendants significantly increases.

This bill allows the DMHA to contract with third-party entities to provide services for defendants in either a residence, community setting, or correctional facility. It is likely that a slight decrease in expenditures will be realized by the DMHA if a contract is for services in either a residence or community setting. However, if the services are provided in a correctional facility, the DMHA would likely experience an increase in expenditures. The bill would affect very few defendants. Thus, any increases or decreases in expenditures would be minimal.

**Explanation of State Expenditures:** (Revised) *CMHC Appropriations:* If Lake County increases its actual levy (as explained in *Explanation of Local Revenues*), the state would have additional expenditures for PTRC and Homestead Credit estimated at \$65,000 in FY 2004 (partial year), \$198,000 in FY 2005, and \$204,000 in FY 2006.

PTRC and Homestead credits are paid from the Property Tax Replacement Fund which is annually supplemented by the state General Fund. Any additional expenditures for these credits would ultimately come from the state General Fund.

*Incompetence to Stand Trial:* Current statute requires the DMHA to confine a defendant to a state institution if (1) they are not competent to stand trial or (2) their competence to stand trial is questionable. This bill allows the DMHA to contract with third-party entities to provide restoration services in alternative venues. Contracted restoration services may be provided to defendants (1) in the location where the defendant currently resides or (2) in the least restrictive setting appropriate to the needs of the defendant. The latter includes correctional facilities.

Current statute also requires a defendant whose competence to stand trial was previously questioned to be returned to court after their competence has been certified by the DMHA. The bill would allow the DMHA (or a DMHA-contracted entity) to petition the court to postpone the return of a defendant.

*DMHA and DOC budgets:* Total state appropriations for the DMHA for FY 2004 are \$273 M; the DOC was appropriated \$136.7 M. Any impacts on the DOC or the DMHA expenditures would (1) fall within existing department appropriations, and/or (2) shift between the two departments.

The DMHA, however, reports that additional funding will be necessary if the number of defendants found incompetent to stand trial significantly increases.

*Contracting Costs:* Contract amounts for the DMHA vary depending on the level of services a defendant requires. Furthermore, the cost to contract for services (where the defendant is currently residing or in a community setting) would be either equal to or slightly less than the cost to provide services in a state institution. Reductions in expenditures would likely be a result of lower housing costs. The DMHA, however, reports that decreases in expenditures would be minimal; this bill would apply to very few defendants. There are approximately one hundred defendants residing in state institutions (for incompetence to stand trial issues). Of these defendants, approximately five would be affected by this bill. Reduced expenditures to the DMHA are dependent on the number of defendants housed in residential or community settings and their contract costs.

*Department of Corrections:* Current statute requires defendants who are found incompetent to stand trial to be moved to a state institution. State institutions, however, do not have the ability to house high-security inmates. This bill would allow the DOC to retain the defendant in the correctional facility. In addition, it allows the DMHA to either contract for services for the defendant or provide services themselves. Expenditures for housing the defendant would be shifted from the DMHA to the DOC.

The DMHA reports that contracting for services at a correctional facility would likely be more expensive than to provide services at a state institution. Defendants residing in correctional facilities would probably require a higher level of services. For example, the use of a forensic psychiatrist is often necessary. Forensic psychiatrists provide specialized services, thus, their contracts will likely be negotiated at a higher rate than that of other psychiatrists. Furthermore, there are only a few forensic psychiatrists in Indiana; contracts may need to include travel expenses. It is likely that the forensic psychiatrists will not reside in close proximity to the defendant.

Currently, there are two defendants in correctional facilities that this bill would apply to. Increases in expenditures for the DMHA are dependent on the number of defendants affected by this bill and the cost to contract for services needed.

*Background Information:* A defendant is considered competent to stand trial if (1) they have the ability to understand the proceedings and (2) they have the ability to participate in their own defense. The average cost to house a resident in a state institution is approximately \$350 per day. The cost to house a male inmate is between \$48.06 (minimal security) and \$83.78 (maximum security) a day. The cost to house a female inmate is \$188.29 a day. Differences in housing costs are mainly due to additional mental health services provided to defendants residing in state institutions and excess capacity in the state institutions.

**Explanation of State Revenues:** *See Explanation of State Expenditures.*

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** (Revised) *CMHC Appropriations:* Under current law, counties *must* make an appropriation to fund community mental health centers from the county general fund. The appropriation may not exceed the amount that would be generated in the county by a tax rate of \$0.0133, as adjusted for reassessment, per \$100 of assessed value (AV). The reassessment adjustment was added by SEA 1 - 2004 and first affects appropriations in CY 2004. Except in Marion County, appropriations increased in CY 2003 as a result of the new reassessed values. In CY 2004, these appropriations will be reduced to their 2002

appropriation level plus natural AV growth (estimated at 3.3% per year beginning in CY 2005).

Under current law, AV will be reduced from 2003 to 2004. This reduction is due to the expansion of the interstate commerce exemption for inventory and the return of the personal property depreciation schedules to their original rates. The reduced AV in 2004 will produce a statewide total appropriation that is approximately the same as the 2002 appropriation. After 2004, the appropriation will grow at an estimated average rate of 3.3% per year under current law.

Under this proposal, each county's mandatory 2004 community mental health center appropriation would be equal to its 2002 appropriation. Beginning in 2005, each year's appropriation would equal the previous year's appropriation plus a growth factor equal to 70% of the assessed value growth quotient (AVGQ). Each county would have the same growth rate. The AVGQ equals the six-year average growth in Indiana nonfarm personal income (4.7% in CY 2004). The growth at 70% of AVGQ would equal 3.3%. This is about the same as the statewide five-year average annual growth in assessed value (in nonreassessment years). Assuming that AV continues to grow by about 3.3% and assuming that the AVGQ stays around 4.7%, then statewide total appropriations would grow at roughly the same rate under both methods.

On a statewide basis, there would be no fiscal impact to this provision. Of course, if the AVGQ and the actual AV growth rate diverge or come closer together, then the fiscal impact would change. There would, however, be some change in the appropriation level in individual counties. Those counties whose assessed value has been growing at a rate greater than 3.3% would receive smaller increases under this bill than under current law. Likewise, counties with AV growth that is under 3.3% would receive larger appropriation increases under this bill. However, the statewide total mandatory appropriation would not change under this bill.

*Lake County:* Under current law, the optional supplemental appropriations available for each county must come from available funds under the county's maximum levy. This bill would move the Lake County supplemental appropriation outside of the maximum levy. This means the county could increase its actual levy by the amount of the supplemental appropriation. This supplemental appropriation (and possible levy increase) is estimated at \$952,000 in CY 2004, \$983,000 in CY 2005, and \$1.02 M in CY 2006.

**State Agencies Affected:** Department of Local Government Finance; Department of Mental Health and Addictions; Department of Correction.

**Local Agencies Affected:** Counties; Community Mental Health Centers.

**Information Sources:** Local Government Database; Willard Mays, Assistant Deputy Director for Policy Development, Department of Mental Health and Addictions, 232-7894; Suzanne Clifford, Director, Department of Mental Health and Addictions, 232-7845.

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